

SEP 18 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****PATENT**

Applicants: Bruce K. Zeller                      Attorney Docket No.: 34985.0136  
Serial No.: 10/823,113                      Group Art Unit: 3653  
Filed: April 13, 2004                      Examiner: Joseph C. Rodriguez  
TITLE: METHOD AND APPARATUS FOR SEPARATING EXCAVATED  
MATERIAL

***TERMINAL DISCLAIMER TO OBLVATE  
A DOUBLE PATENTING REJECTION  
OVER A "PRIOR" PATENT***

Mail Stop AF  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

The owner, Bruce K. Zeller, of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior U.S. Patent No. 6,863,182 as such term is defined in 35 U.S.C. §§ 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 and 173 of the reference patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is

Serial No. 10/823,113

Attorney Docket No. 34985.0136

in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

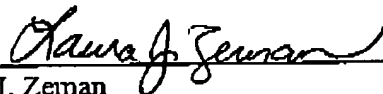
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is an attorney of record, Reg. No. 36,078.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: 9/18/06

By:   
Laura J. Zeman  
Reg. No. 36,078

**SNELL & WILMER L.L.P.**  
400 East Van Buren  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Telephone: (602) 382-6377  
Facsimile: (602) 382-6070